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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Joseph C. Spero, Magistrate Judge

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
VS.	)	NO. 14-CR-0306 WHA
	)	
LUKE BRUGNARA,	)	
	)	
Defendant.	)	
_____	)	

SAN FRANCISCO, CALIFORNIA  
THURSDAY, FEBRUARY 12, 2015

**TRANSCRIPT OF PROCEEDINGS OF THE OFFICIAL ELECTRONIC SOUND  
RECORDING (FTR TIME: 9:30 - 9:38)**

**APPEARANCES:**

For Plaintiff:	United States Attorney's Office Criminal Division 450 Golden Gate Ave, 11th Floor San Francisco, CA 94102
BY:	<b>BENJAMIN KINGSLEY, ATTORNEY AT LAW</b>
For Defendant:	Law Offices of Erik Babcock 717 Washington St., 2d Floor Oakland, CA 94607
BY:	<b>ERIK BABCOCK, ATTORNEY AT LAW JAMES STEVENS, ATTORNEY AT LAW</b>

Transcribed:	Carrie E. McKee-Parks Transcriber 510-637-9897 McKee-Parks65@att.net
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1 Thursday, February 12, 2015

9:30 a.m.

2 P R O C E E D I N G S

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4 THE CLERK: Calling case number CR 08-0222, USA v.  
5 Luke D. Brugnara; and case number CR 14-306, USA v. Luke D.  
6 Brugnara.

7 MR. BABCOCK: Good morning, your Honor.

8 THE COURT: Good morning.

9 MR. BABCOCK: Erik Babcock and James Stevens on  
10 behalf of Mr. Brugnara, who is in custody and about to be  
11 brought out.

12 MR. KINGSLEY: Morning, your Honor. Ben Kingsley for  
13 the United States.

14 THE COURT: Mr. Kingsley.

15 (Whereupon there was a pause in the proceedings.)

16 MR. BABCOCK: Mr. Brugnara is now present, your  
17 Honor.

18 THE COURT: Good morning, Mr. Brugnara.

19 THE DEFENDANT: Good morning.

20 THE COURT: Good morning. You are here because I've  
21 received a bench warrant from Judge Alsup.

22 Let me remind you that you have the right to remain silent.  
23 You don't have to make any statements to any agent at the  
24 United States Government. If you have made statements in the  
25 past, you don't have to make anymore statements. If you start

1 to make a statement, you may stop at any time. If you do make  
2 a statement, it can be used against you.

3 You have the right to a lawyer at all stages of these  
4 proceedings and a free counsel if you cannot afford a lawyer.

5 We're here because I've received an order signed by Judge  
6 Alsup on February 5th charging that you violated the terms of  
7 your -- of his furlough order and escaped from the Federal  
8 building and were at the time of that order currently at large.  
9 That order also revoked; the furlough; and remanded you into --  
10 ordered to be in the custody.

11 So that's what brings us here today.

12 THE DEFENDANT: Your Honor, I'd like to -- I  
13 understand everything that you advised me and I'd like to speak  
14 with your permission and address this issue because I was just  
15 taken into custody and I'm very transparent.

16 The truth is the truth. I left the --

17 THE COURT: So before you do that --

18 MR. BABCOCK: I would --

19 THE COURT: Before you do that, let me say that I  
20 advise you not to.

21 THE DEFENDANT: I respect --

22 THE COURT: It's not in your interest. Your  
23 statements can and will be used against you.

24 THE DEFENDANT: I understand, your Honor.

25 THE COURT: And I'm sure your counsel would echo

1 me --

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: -- in saying you should not speak.

4 THE DEFENDANT: I understand your -- but it's  
5 critical for what I'm going to ask this Court so -- because I'm  
6 going to ask this Court for bail. And I think this Court has  
7 to understand the circumstances.

8 And for starters --

9 THE COURT: Let me just ask your lawyer to put his  
10 position on the record.

11 MR. BABCOCK: I have spoken with my client before  
12 Court, your Honor, briefly and he asked me to make a request  
13 for bail. I told him I was not going to make a request for  
14 bail. I do not feel I'm in a position to make that request.  
15 And I advised him not to -- we advised him and I advised him  
16 again not to talk about it in court at this point.

17 THE DEFENDANT: And I respectfully do hear what this  
18 Court says and Mr. Babcock. Mr. Babcock hasn't been available  
19 to meet with me. That's been a big issue with his these  
20 proceedings for the last seven months; eight months; ad nauseam  
21 in Judge Alsup's court.

22 THE COURT: Well -- so go ahead. Make your bail  
23 application over my recommendation and over your counsel.

24 THE DEFENDANT: Bail application is that this case  
25 has 40,000 pages of discovery. There's a trial in two weeks.

1 And Judge Alsup has tried to coordinate a tenable situation  
2 where I can review the material with counsel. It's just  
3 impossible to do in custody.

4 I have no history whatsoever of not complying with bail.  
5 I've self-surrendered to La Tuna, Texas without any escort. I  
6 surrendered back from Texas to the halfway house on a  
7 commercial aircraft with stopovers in international airports.

8 I have secured bond that can be posted of a million dollars  
9 as was done in this Court post-conviction in the tax case.

10 And, you know, I'm a family man; married 25 years. I have  
11 four teenage children. I haven't seen my children in eight and  
12 a half months. And in this particular case, I think that's the  
13 biggest travesty. I haven't seen my children in eight and a  
14 half months.

15 And in this particular case, it's a claim -- a single  
16 claimant who's making a claim about art that my attorney can  
17 proffer to the Court that he's determined through the major  
18 three auction houses to determine that they're worth a thousand  
19 dollars; not \$11 million.

20 Again, we can believe the claimant, who has no credibility  
21 or the three largest auction houses in the world; Sotheby's,  
22 Christie's, and Bonner's (phonetic). It's staged (phonetic)  
23 for less than a thousand dollars.

24 So I've been held for eight and a half months off a sole  
25 claimant; haven't seen my children. I'm willing to post a

1 million dollars secured bond and comply with any restrictions  
2 that you set forth.

3 Regarding this issue with the marshals, I phoned Judge  
4 Alsup's clerk the day before I was taken in and left a very  
5 detailed message with Dawn, his -- to forward to Judge Alsup  
6 saying that I absolutely intend on being at the trial; that I'm  
7 convalescing.

8 I have physically lost 100 pounds sitting in the cell for  
9 eight months. I was taken in at Glen Dire at 272 pounds. I  
10 weighed 168 pounds. The woman that convalesced me is a  
11 registered nurse that I'm with at El Camino Hospital for four  
12 days. I was severely dehydrated. My shoulder got dislocated  
13 the morning that I left.

14 I notified Erik Babcock, my attorney. I said my shoulder  
15 got dislocated at Glen Dire by a guard named Duffy who ran  
16 over; threw my arm back; and dislocated it. The other guard  
17 had to stop him. He said hey, don't do that by Brugnara; guy  
18 by the name of Ziller (phonetic.)

19 I went and got diagnosed by the nurse at Glen Dire. My  
20 shoulder was dislocated. It was confirmed yesterday with the  
21 marshals and it was severely sprained, but not broken.

22 But they gave me -- the point is when I left, I made it  
23 clear to counsel I'm going to get emergency medical treatment.  
24 I'm absolutely not absconding. I respect this Court. I  
25 respect Judge Alsup. And the -- I especially respect the

1 marshals. I've had nothing but respect for every one of these  
2 marshals in the last seven months.

3 So it was no disrespect and I told that to Judge Alsup on  
4 the message. I'm not trying to disrespect U.S. marshals, but I  
5 needed medical treatment. I lost 100 pounds.

6 THE COURT: So could you wrap up? I have a few other  
7 people --

8 THE DEFENDANT: So to -- so to wrap up, I wanted the  
9 Court to understand that, but I requested bail with the secured  
10 bond and any conditions you find reasonable because it's  
11 impossible to prepare for this case with counsel meeting once  
12 or twice a week with \$30,000 and also the conditions.

13 THE COURT: Okay. Thank you, very much, sir.

14 I'll just note for the record that there are lawyers in  
15 this courtroom who have clients who are in prison at this very  
16 moment who, in order to prepare for a trial; some of which are  
17 coming up in the summer; have to read -- go over a terabyte of  
18 information. So your argument about 40,000 pages, I think, is  
19 not correct.

20 But in any event, the motion is denied. Let's set a time  
21 to appear before Judge Alsup.

22 THE CLERK: I've been told to set it before Judge  
23 Alsup this coming Tuesday the 17th at 2:00 p.m.

24 THE COURT: Okay. You'll be before Judge Alsup  
25 Tuesday the 17th at 2:00 p.m.; Did you say?

1 THE CLERK: Correct.

2 THE COURT: At 2:00 p.m. for further proceedings.

3 MR. BABCOCK: I have told the prosecutor this. We  
4 were talking about the 24th. I have an -- an appearance in  
5 Sacramento, which I cannot change in short order. I will try  
6 to get someone else to appear for me or maybe I can speak  
7 directly with Judge Alsup about making it earlier in the day.

8 THE COURT: That's the way to address it. Yeah.  
9 Thank you.

10 MR. BABCOCK: Thank you, your Honor.

11 MR. FRENTZEN: Thank you, your Honor.

12 THE COURT: Thank you.

13 (Proceedings concluded at 9:38 p.m.)  
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CERTIFICATE OF REPORTER

I certify that the foregoing is a true and correct transcript, to the best of my ability, of the pages of the official electronic sound recording provided to me by the U.S. District Court, Northern District of California, of the proceedings taken on the date and time previously stated in the above matter.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken; and, further, that I am not financially nor otherwise interested in the outcome of the action.



DATE 2-26-15

Carrie McKee-Parks  
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Date